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	1	GEORGE W. NOWELL (SBN: 83868) george.nowell@nowelllaw.com
	2	PAUL B. ARENAS (SBN: 167863) paul.arenas@nowelllaw.com
	3	LAW OFFICES OF GEORGE W. NOWELL
	4	120 Montgomery Street, Suite 1990 San Francisco, CA 94104
	5	Telephone: (415) 362-1333 Facsimile: (415) 362-1344
	6	Auditicys for Flamuit.
	7	ARGO IMPORT AND SALVAGE, INC. dba ARGO FINE IMPORTS
	8	UNITED STATES DISTRICT COURT
	9	NORTHERN DISTRICT OF CALIFORNIA
	10	(OAKLAND DIVISION)
JE W. NOWELL , Suite 1990 94104 (415) 362-1344	11	ARGO IMPORT AND SALVAGE, INC. dba ARGO FINE IMPORTS CASE NO.:
	12	Plaintiff,) COMPLAINT IN REM AND IN
GEORGE W y Street, Suii sco, CA 941(33 Fax: (415)	13	PERSONAM FOR CARGO DAMAGE v.
	14	M/V PACIFIC EXPLORER, her engines, tackle,
ES OF trance France) 362-1	15	machinery, appurtenances, etc. in rem. and
OFFICES OF 20 Montgomer San Franci me: (415) 362-13	16	THE CHINA NAVIGATION COMPANY, LTD.; INDOTRANS ASIA; SWIRE SHIPPING,)
LAW OFFICES OF 120 Montgome: San Franci Phone: (415) 362-1:	17	LTD (UK); SWIRE SHIPPING, in personam,
J	18	Defendants.
•	19	<u> </u>
	20	COMES NOW Plaintiff ARGO IMPORT AND SALVAGE, INC. dba ARGO FINE
	21	IMPORTS ("Plaintiff" or " ARGO "), and with this complaint alleges against the above-named
	22	vessel <u>in rem</u> and against the above-named defendant <u>in personam</u> upon information and belief:
	23	
	Į.	JURISDICTION 1. This is a case of admiralty and maritime jurisdiction, within the provisions of 28
	24	data martine jurisdiction, within the provisions of 28
	25	USC § 1333 as hereinafter more fully appears, and is an admiralty and maritime claim within the
	26	meaning of Rule 9(h), Federal Rules of Civil Procedure.
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P0312.2007-17	737	COMPLAINT IN REM AND IN PERSONAM FOR CARGO DAMAGE

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LAW OFFICES OF GEORGE W. NOWELL

120 Montgomery Street, Suite 1990

San Francisco, CA 94104

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Venue is proper in this District Court pursuant to 28 U.S.C. § 1391 because this is 2. a district where Defendant SWIRE SHIPPING LIMITED (UK) may be found, and Defendant vessel and its owners are aliens. SWIRE maintains an office in Oakland, California.

FIRST CLAIM FOR RELIEF

- 3. Plaintiff at and during the times hereinafter mentioned, was a corporation organized and existing under the laws of one of the States of the United States of America or a country of the world.
- At and during all the times hereinafter mentioned, the in personam defendant was 4. and now is a legal entity capable of being sued in this Court; owned, operated, managed, chartered and/or controlled the above-named Defendant vessel which is now or will be within the jurisdiction of this Court during the pendency of this action; and/or engaged in business as a common carrier of merchandise by water or land for hire, with an office, agent or doing business within the jurisdiction of this court.
- At and during all the times and places hereinafter mentioned, each of the 5. Defendants was the duly authorized agent, servant, or employee of the remaining Defendants, and was at all times and places mentioned herein acting within the purpose and scope of said agency, service and employment in connection with the matters herein alleged.
- 6. Plaintiff is the owner, shipper, consignee, forwarder (or underwriter or the assignee of one of them) of the cargo described in Exhibit A, attached hereto, and is the proper party to bring this action on its own behalf and as agent and trustee on behalf of any and all other parties interested in such cargos as their respective interests may ultimately appear.
- 7. Defendants and each of them carried, handled, were the bailee of, consolidated, forwarded or controlled Plaintiff's personal property ("cargos") as described in Exhibit A hereto.
- This is a case of cargo damage resulting from breach or other fault by the 8. Defendants, and each of them, of their contractual duties as common carriers or parties to the contracts of affreightment, bailment and other contracts with respect to cargos loaded at the places described in Exhibit A, attached hereto, carried pursuant to the contracts and bills of

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San Francisco, CA 94104

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lading identified in Exhibit A, or following therefrom and related thereto, and which were discharged and delivered damaged at the place of delivery named in Exhibit A; such damage is described in and amounting to the sums stated in Exhibit A.

- At no time has Plaintiff been compensated for its damages as alleged above by 9. Defendants, or any of them, despite demands made therefor. Defendants and each of them refuse and continue to refuse to pay Plaintiff's damages.
- As a proximate result of said refusals, Plaintiff has been damaged in an amount in 10. excess of that stated in Exhibit A. In addition to that loss, Plaintiff has incurred attorneys' fees and other recovery expenses in amounts as yet unascertained.

WHEREFORE, Plaintiff prays for relief as hereinafter set forth.

SECOND CLAIM FOR RELIEF

- 11. Plaintiff incorporates Paragraphs 1 through 7 and 9 through 10 of the First Claim for Relief of this Complaint, as if herein stated in full.
- Defendants and each of them so negligently breached their duties as common 12. carriers, handlers, bailees, warehousemen, agents or their other capacities with respect to the cargos loaded at the places described in Exhibit A, attached hereto, and carried pursuant to the contracts and bills of lading identified in Exhibit A, that said cargos were discharged and delivered damaged at the places of destination named in Exhibit A; such damages amounting to the sums stated in Exhibit A.
- As a direct and proximate result of the conduct as aforesaid of Defendants and 13. each of them, Plaintiff has been damaged in an amount set forth in Exhibit A. In addition to that loss, Plaintiff has incurred attorney's fees and other recovery expenses in amounts as yet unascertained.

WHEREFORE, Plaintiff prays for relief as hereinafter set forth.

PRAYER

WHEREFORE, Plaintiff prays:

That process in due form of law according the practices of this Court may issue 1. against Defendants in excess of the sum of \$22,585.32;

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Document 1

Filed 06/29/2007

Page 4 of 20

LAW OFFICES OF GEORGE W. NOWELL

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Phone: (415) 362-1333 Fax: (415) 362-1344

San Francisco, CA 94104

		Case 3:07-cv-03436-JL Document 1	Filed 06/29/2007 Page 5 of 20				
	1		EXHIBIT A				
	2	BILLS OF LADING NOS.:	Dilla CI 1' N. YD YYTTE 1001 TO THE				
	3	DIEES OF LADING NOS	Bills of Lading Nos. IDJKT54081, IDJKT54086, IDJKT54087, IDJKT54088, IDJKT54088, IDJKT54089, IDJKT54092, IDJKT54096 dated January 27, 2006 at Jarkarta, Indonesia (copies attached hereto and incorporated herein).				
	4						
	* 5						
	6	VESSEL:	M/V PACIFIC EXPLORER				
	7	VOYAGE	V.0004E				
÷	8	DATE OF SHIPMENT:	On or about January 26, 2006				
	9	DATES OF DELIVERY:	On or about March 13, 2006				
	10	PLACE OF SHIPMENT:	Jakarta, Indonesia				
VELL)	11	OCEAN PORT OF DISCHARGE:	Long Beach, CA				
7. NOV te 1990 34 362-13	12	PLACE OF DELIVERY:	Los Angeles, CA				
ORGE W.] reet, Suite CA 94104 ax: (415) 36	13	PLACE OF FINAL DESTINATION:	Metairie, LA				
FICES OF GEOF Montgomery Stre San Francisco, C (415) 362-1333 Fa	14 15	PLACE OF LOSS:	En route to place of delivery and while in the custody of defendants				
OFJ 20 N	16	DATE OF LOSS:	While in the custody of defendants sometime between approximately January 26, 2006 and Marcl 13, 2006				
LAW 1: Pho	17 18	SHIPPERS:	PT KAYU LAPIS INDONESIA DESA MUROEJO, KALIWUNGU, KABUPATEN KENDAL 51372, SEMARANG, INDONESIA				
	19 20 21	CONSIGNEES:	TO THE ORDER OF PT KAYU LAPIS INDONESIA DESA MUROEJO, KALIWUNGU, KABUPATEN				
	22	NOTIFY PARTY:	KENDAL 51372, SEMARANG, INDONESIA ARGO FINE IMPORTS 3032 RIDGELAKE DRIVE				
	23		SUITE 202, METAIRIE, LOUISIANA 70002				
	24	DESCRIPTION OF CARGO:	4,995 PCS BREAKBULK MERANTI PLYWOOD				
	25	NATURE OF DAMAGE:	Physical Damage and Loss				
	26	AMOUNT OF DAMAGE:	In excess of \$22,585.32 (including mitigation costs				
•	27	·	less salvage)				
	28						
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		COMPLAINT IN PEW AND	IN PEDSONAM FOR CARCO DAMAGE				

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ATTN: BAMBANG FA	marjo, Telei	PHONE NO . (224) 60029 00	}		•	. '
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ARGO FINE IMPORT

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ATTACHED BIL NO : IDJKT\$4090

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Shipping Marks .	Ciples	Fieces	Gbm	MSE	GIW KGS	N/W KGS
ARGQ P.O. NO. 6607KLLA CRATE MARKS:	D	9B / DGC / DQ	VL LFE	,3.4MM	X 48 X96	
154-3/154-4/154-5 LOS ANGELES 3,4X48X98 DBB / OCC / DOVL	2 2 14	360 360 2,420	3.644 3.844 25.508.	11.520 11.520 80 840	2,302 2,302 10,114	2,210 2,210 10,4/Q
PLYWOOD MADE IN INDUNESIA	18	3.240	32,793	103.680	20,718	19,890

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ARGO FINE IMPORTS

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ORTOR IND STRANS ASIA A SERVICE OF THE OHINA NAVIGATION CO. LTD. BILOF (AFOND No. EOUKINO NUMBER ARCHOLLON. SHIPPER KAYITTAPIR INFONESIA DESA MOROREJO, KALIWUNGU, KABUPATEN EXTORT HEFELONCIS KENDAL 51372, SEMARANG, INDONESIA ATTN: BAMBANG RAHARJO, TELEPHONE NO: (024) 8882980 CONSIGNATE ORDER OF PT, KAYU LAPIS INDONESIA ORWANDING AGENT - RUMERONCES DESA MUNUMEJU, KALIWUNGU, KABUPATEN KENDAL 51372, SEMARANG, INDONESIA ATTN: BAMBANG RAHARJO, TELEPHONE NO: (024) 8862980 POINT AND L'UUNINY ON DRUGEN HOTIST MANY (It is used that natisposibility mill product the Contract to Acquise the Color of the Acquise the Color of the Acquise the Color of the ALEO HOYIFY I ROTTING I THYRUCTIONS SECOND ATTN : DON MCMASTER, TELEPHONE NO : 504-828-0843 ORIGINAL AND M.G.MAHER AND CO., ING, ONE CANAL PLACE, ") ACE OF RECEIPT BY PRECANDER MV. ELSES BEMARANG, INCOMES v. viii f PACIFIC EXPLORER V.0004E LOADING PLOT / TRRMINAL JAKARTA - INDONESIA LONG BEACH, CA PLACT OF BULLY MY OXCUMENT TYPE OF HIGHERING LOS ANGELES, CALIFORNIA, U.S.A PARTICULARS FURNISHED BY SHIFTER IN IN KEY-DISCRIFTION OF PACKAGES AND GOODS espect to the Carrier (and alouse 111) No OF PKGS MARKS AND NUMBERS OROSS WEIGHT | MEASTER SON BREAKBULK MERANTI PLYWOOD Shipping Marky: Cbm MAR NAW KGS Q/W KGS TTACHED 8A ~~~ CW 41,220,00 KGS NW 39,884,00 KGS **) BUITE 1800, NEW ORLEANS, LOUISIANA 70130, MEVE 80.660 CDM PHONE: 504-581-3320, FAX: 504-599-2011 INDOTRANS'ASIA AS CARRIER ON BOARD MV: ELSES V. VIII, DATED CFS/CFS AT SEMARANG, INCONESIA EXCESS VALUATION, REPORTO CLAURE 7 (A) ON REVERSE SIDE JAKARTA TTEM NUMBER PREICHT CHARGES PAYABLE AT SALAND BLAND BENEVISION OF SECURED BY AND CYPSIGN MENNET PRUCHESURS ^\ (F/* "FREIGHT PREPAID " PT. JAHUINE JANUGUE /ICES EXCESS VALUE CHARGE (500 CLAUSE 1 14) "APPLICATION FOR COMPRISE TRAVE TOTAL CHARGES CONVERYED TO 1550 AS AGENT FOR CARRIE TOTAL CHARGES HEIDELYMANN AGLA UT

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ARGO FINE IMPORT

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'ATTACHED B/L NO : IDJKT54091

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2.7X46X96 QBB / DCC / DOVL	28	5.160	49.510	28.160 197.120	4,580 32,060	4,398
LFE PLYWOOD MADE IN INDONEGIA	36	7,020	63,660	263,440	41,220	39,564
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Page 14 of 20

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ARGO FINE IMPORT

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ATTACHED BIL NO 1 IDJKT54085

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DESA MOROREJO,		KABUPATEN				IDDY LUSTRA	
KENDAL 51372, SEN				ENFORTMEFERENCES			
ATTN : BAMBANG R	aharjo, tēle	PHONE NO : (0	24) 6662980	•			
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KENDAL 51372, SEN ATTN : BAMBANG R			14) 0600000				
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ARGO FINE IMPORT

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ATTACHED BIL NO . IDJKT54086

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ARGO FINE IMPORT

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") SUITE 1600, NEW ORL	EANS, LOU	15 ANA 70130			,	, ,u., ,e.		
PHONE: 504-581-\$320 ATTN: IMPORT DEPAR	TMENT	579-2611						
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Shipping Marks:	<u>Cratea</u>	Pisces	Chm	MSF	GW KGS	<u>N∕W KGS</u>
ARGO P.O. NO, 6512KLLA-A CRATE MARKS	DBB/DGG/DOVL LFE			2.7MM × 48 × 102		1.
062-3/062-4/062-5 LOB ANGELES	4	880	7.515	29.920	4,952	4.79G
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BILL OF LADING FOR COMBINED TRANSPORT OR IND STRANS ASIA ASERVICE OF THE CHIMA NAVIGATION CO. LTD. (Ind. In the U.A.) DJKT84087 PT. KAYUTAPIS INDONESIA EXCHESHACIO DESA MOROREJO, KALIWUNGU, KABUPATEN EXPORT REPERENCES KENDAL 51372, SEMARANO, INCONESIA ATTN . BAMBANG RAHARJO, TELEPHONE NO . (024) 8062980 CONTRIBUTE ORDER OF PT. KAYU I APIS INDONESIA FORWARDING AGENT - REPERBIACE DESA MOROREJO, KALIWUNGU, KABUPATEN KENDAL 97372, SEMARANG, INDONESIA ATTN: BAMBANG RAHARJO, TELEPHONE NO: (024) 8662980 MOINT AND COUNTRY OF DRIGIN WORLD PARTY (It IS AREAS ONLY OF THE PROMISE AND WEEK TO SOUTH A THE PARTY OF THE P NUMBER OF THE PROPERTY OF THE CHICALORS COPY ATTN: DON MCMASTER, TELEPHONE NO: 504-828-0943 AND M.G.MAHER AND CO., INC., ONE CANAL PLACE, *7 **NON NEGOTIABLE** PLACE UP RECEIPT DY PRISCARHION MV. ELSES SEMARANG, INDONESIA V.VIII PACIFIC EXPLORER V.0004E ONT DE LOADING LOADING ITER THEMWAL JAKARTA - INDONESIA FLACE OF DELIVERY BY ONCARRIA 1179 OF MOVIMENT LOS ANGELES, CALIFORNIA, U.S.A. TORY UP DISCHARGE LONG BEACH, CA PARTICULARS FURNISHED BY SHIPPER that not selected of by the Gorina (see the MARKE AND NUMBERS | No OF PAGE | DESCRIPTION OF PACHAGES AND GOODS GROSS WHIGHT MEASUREMONT BREAKBULK MERANTI PLYWOOD Shipping Marks: Crates . Cha MSF SWKGS NWKGS --- AB ATTACHED GW 20,872.00 KGS NW 19,888.00 KGS MEAS 30.970 CBM ") BUITE 1600, NEW DRLEANS, LOWIS)ANA 70130, PHONE: 504-581-3320, PAX: 504-628-2011 INDOTRANS ASIA AS CARRIER ON BOARD MV. ELSES V. VIII, DATED JANUARY 27, 2006 CFS/CFS AT SEMARANG, INDONESIA WILLIAM VALVATION: ROPPA TO CLAUSE T (4) ON REVERSE SIDE ITEM NUMBER TA ZIEAYAP PARAHO TVIDISAV ATGANAI. SIX TO EXTRACT SOUND AND BY THE CARACER FREIGHT AND GWARGES PREMIT COLLECT Combined by the Combined on Marine in accordanced graft and partition personal accordance of the Combined Combi * FREIGHT PREPAID * SICTHREE! PT, JARDINE TANGGUH TRANSPORT SERVICES EXCESS VALUE CHARGE (SEE GLAUSE > 14) AND TROUBLE GRANNERS BOY YORK ONLY TOTAL CHARGES CONVENTED TO USO. as Adent for Carrier TOTAL CHARGES

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ATTACHED BIL NO : IDJKT54087

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